

REMARKS

Claims 1-2, 3, 6-7, 9, 15, 18-20, 26-31, 34, 36, 42 and 44 are Allowable

The Office has rejected claims 1-12, 15, 17-23 and 26, in paragraphs 2 and 3 of the Office Action, under 35 U.S.C. §103(a) (or in the alternative, 35 U.S.C. §102(e)), as being unpatentable over US Patent No. 6,914,914 ("Flood"). Applicant respectfully traverses the rejection.

The rejection of Claims 1, 18 and 27, in view of Flood is not supported. "There must be a teaching or suggestion within the prior art, or within the general knowledge of a person of ordinary skill in the field of the invention, to look to particular sources of information, to select particular elements, and to combine them in the way they were combined by the inventor." ATD Corp. v. Lydall, Inc., 159 F.3d 534, 48 USPQ2d 1321 (Fed. Cir. 1998). Flood teaches temporal synchronization of devices in different time zones, such as valves and motorized pumps (Flood, col. 12, ll. 19-36). In contrast, Applicant discloses methods and systems to synchronize the transmission of multimedia data, for example, to speakers in a building. One skilled in the art of multimedia data transmission would not have been "motivated to look to" Flood's synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed or claimed by Applicant. Thus, claims 1, 18 and 27 are allowable.

Claims 2, 3, 6-7, 9, and 15 depend from Claim 1. Claims 19-20 and 26 depend from Claim 18. Claims 28-31, 34, 36, 42 and 44 depend from Claim 27. Applicant has shown claims 1, 18 and 27 to be allowable. Hence, the dependent claims 2, 3, 6-7, 9, 15, 19-20, 26, 28-31, 34, 36, 42 and 44 are also allowable.

Claims 8, 35, and 53 are Allowable

The Office has rejected claims 8, 35 and 53, in paragraph 4 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood, in view of US Patent No. 6,888,819 ("Mushkin"). Applicant respectfully traverses the rejection.

Claim 8 depends from Claim 1, which Applicant has shown to be allowable. Mushkin does not provide any motivation for those skilled in the art to look to Flood's synchronization of,

e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 8 is allowable, at least by virtue of its dependency from Claim 1.

Claim 35 depends from Claim 27, which Applicant has shown to be allowable. Mushkin does not provide any motivation for those skilled in the art to look to Flood's synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 35 is allowable, at least by virtue of its dependency from Claim 27.

Claim 53 depends from Claim 51, which the Office has not rejected under the asserted combination of Flood and Mushkin. Hence, the rejection of Claim 53 is improper and should be withdrawn. Further, neither Flood, nor Mushkin, provides any motivation for those skilled in the art to look to either reference in order to produce the computer program products recited in Claim 53. Thus, Claim 53 is allowable, at least by virtue of its dependency from Claim 51.

Claims 10-12, 17, 23, 37-39 and 41 are Allowable

The Office has rejected claims 10-12, 17, 23, 37-39 and 41, in paragraph 5 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood in view of US Patent No. 6,834,091 ("Litwin"). Applicant respectfully traverses the rejection.

The cited references fail to suggest or disclose a motivation for making the asserted combination. Flood discloses an industrial control system that synchronizes valves, motorized pumps, solenoids and other actuators in different time zones, for example, in order to control industrial processes, machines, manufacturing equipment, and other industrial applications. Flood, col. 1, ll. 12-15, col. 3, ll. 24-27, col. 6, ll. 27-28. Litwin, on the other hand, discloses a single power line network that includes a hardwired electrical power system for a home or building that is connected via power line modems to a plurality of media devices, such as a VCR, DVD player, CD player, or other media device. Litwin, col. 2, ll. 67-col. 3, ll. 5. Litwin should not be combined with Flood, because the synch carriers used by Litwin to synchronize media players would not synchronize the industrial control devices used by Flood. Additionally, it is unlikely that industrial control devices in separate time zones would be connected via a single electrical power line. While Flood and Litwin may synchronize multiple devices, the references are technically incompatible and are directed to completely different problems. Litwin is directed to saving bandwidth through use of power line modems, whereas Flood is directed to

improving industrial controls, such as for factory automation. The only motivation to make the asserted combination is provided by Applicant's disclosure.

Further, claims 10-12 and 17 depend from Claim 1, which Applicant has shown to be allowable. Litwin does not provide any motivation for those skilled in the art to look to Flood's synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed and claimed by Applicant. Thus, claims 10-12 and 17 are allowable, at least by virtue of their dependency from Claim 1.

In addition, the rejection of Claim 17 under the asserted combination was withdrawn in response to Applicant's Pre-Appeal Request for Review filed May 25, 2006, the remarks of which are hereby incorporated by reference.

Further, Claim 23 depends from Claim 18, which Applicant has shown to be allowable. Litwin does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 23 is allowable, at least by virtue of its dependency from Claim 18.

Further, Claim 37-39 and 41 depend from Claim 27, which Applicant has shown to be allowable. Mushkin does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed and claimed by Applicant. Thus, claims 37-39 and 41 are allowable, at least by virtue of their dependency from Claim 27.

Claims 13, 24 and 40 are Allowable

The Office has rejected claims 13, 24 and 40, in paragraph 6 of the Office Action, under 35 U.S.C. § 103(a) as being unpatentable over Flood, in view of US Application Pub. No. 2002/0098798 A1 by Solum, et al. ("Solum"). Applicant respectfully traverses the rejection.

No motivation exists to make the combination asserted by the Office. Flood teaches temporal synchronization of devices in different time zones, such as valves and motorized pumps (Flood, col. 12, ll. 19-36). Solum, on the other hand, is directed to a communication system that "provides for downstream transmission of telephony and control data in a first frequency bandwidth over a hybrid fiber/coax distribution network and reception of upstream telephony

and control data in a second frequency bandwidth over the hybrid fiber/coax distribution network." See Solum, Abstract. There is no motivation to make the combination asserted in the Office Action other than that provided by the Applicant's disclosure. The asserted combination is an impermissible hindsight reconstruction based on the Applicant's disclosure.

Further, claim 13 depends from Claim 1, which Applicant has shown to be allowable. Solum does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 13 is allowable, at least by virtue of its dependency from Claim 1.

Further, Claim 24 depends from Claim 18, which Applicant has shown to be allowable. Solum does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed and claimed by Applicant. Thus, Claim 24 is allowable, at least by virtue of its dependency from Claim 18.

Claim 40 depends from Claim 27, which Applicant has shown to be allowable. Solum does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 40 is allowable, at least by virtue of its dependency from Claim 27.

Claims 14, 25 and 41 are Allowable

The Office has rejected claims 14, 25 and 41, in paragraph 7 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood, in view of "Optical PPM Generator by Direct Frequency-Shifting," *OFC '98 Technical Digest*, by Mazzali, et al. ("Mazzali"). Applicant respectfully traverses the rejection.

Claim 14 depends from Claim 1, which Applicant has shown to be allowable. Mazzali does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed and claimed by Applicant. Thus, Claim 14 is allowable, at least by virtue of its dependency from Claim 1.

Further, Claim 25 depends from Claim 18, which Applicant has shown to be allowable. Mazzali does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 25 is allowable, at least by virtue of its dependency from Claim 18.

Claim 41 depends from Claim 27, which Applicant has shown to be allowable. Mazzali does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 41 is allowable, at least by virtue of its dependency from Claim 27.

Claims 16 and 43 are Allowable

The Office has rejected claims 16 and 43, in paragraph 8 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood, in view of US Patent No. 6,763,241 ("Gous"). Applicant respectfully traverses the rejection.

Claim 16 depends from Claim 1, which Applicant has shown to be allowable. Gous does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 16 is allowable, at least by virtue of its dependency from Claim 1.

Claim 43 depends from Claim 27, which Applicant has shown to be allowable. Gous does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 43 is allowable, at least by virtue of its dependency from Claim 27.

Claims 45-46 and 49 are Allowable

The Office has rejected claims 16 and 43, in paragraph 9 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood, in view of US Patent No. 5,703,877 ("Nuber"). Applicant respectfully traverses the rejection.

The rejection of claims 45-46 has been withdrawn in response to Applicant's Pre-Appeal Request for Review, the remarks of which are hereby incorporated by reference.

Further, Claim 49 depends from Claim 27, which Applicant has shown to be allowable. Nuber does not provide any motivation for those skilled in the art to look to Flood's synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 49 is allowable, at least by virtue of its dependency from Claim 27.

Claim 47 is Allowable

The rejection of Claim 47 has been withdrawn in response to Applicant's Pre-Appeal Request for Review, the remarks of which are hereby incorporated by reference.

Claim 48 is Allowable

The Office has rejected Claim 48, in paragraph 11 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood in view of US Patent No. 5,784,597 to Chiu, et al. ("Chiu"). Applicant respectfully traverses the rejection.

Claim 48 depends from Claim 27, which Applicant has shown to be allowable. Chiu does not provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the methods or systems disclosed by Applicant. Thus, Claim 48 is allowable, at least by virtue of its dependency from Claim 27.

Claims 50-51 are Allowable

The Office has rejected claims 50-51, in paragraph 12 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood in view of US Patent No. 6,721,798 to Kubista, et al. ("Kubista"). Applicant respectfully traverses the rejection.

As explained previously, Flood teaches temporal synchronization of industrial control devices in different time zones, such as valves and motorized pumps (Flood, col. 12, ll. 19-36). In contrast, Applicant discloses computer program products to synchronize the transmission of multimedia data, for example, to speakers in a building. One skilled in the art of multimedia data transmission would not have been "motivated to look to" Flood's synchronization of, e.g., valves and pumps, in order to produce computer program products disclosed by Applicant. Kubista does not provide such motivation. Thus, claims 50 and 51 are allowable.

Claims 53-54 are Allowable

The Office has rejected claims 53-54, in paragraph 13 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood in view of Mushkin and Kubista. Applicant respectfully traverses the rejection.

Claims 53-54 depend from Claim 51, which Applicant has shown to be allowable. Neither Mushkin, nor Kubista, provide any motivation for those skilled in the art to look to Flood's industrial controller synchronization of, e.g., valves and pumps, in order to produce the computer program products disclosed by Applicant. Thus, Claims 53-54 are allowable, at least by virtue of their dependency from Claim 51.

Claims 55-58 are Allowable

The Office has rejected claims 55-58, in paragraph 14 of the Office Action, under 35 U.S.C. §103(a) as being unpatentable over Flood in view of Mushkin. Applicant respectfully traverses the rejection.

Claims 55-56 depend from Claim 1, which Applicant has shown to be allowable. Claim 57 depends from Claim 3, which Applicant has shown to be allowable. Further, Claim 58 depends from Claim 18, which Applicant has shown to be allowable. Thus, claims 55-58 are also allowable.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that the present application is in condition for allowance and respectfully requests that the Examiner reconsider the application and issue a Notice of Allowance for all pending claims. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney or agent.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

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